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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
6

7 COUNTRY STEVENS,

8 Plaintiff,

9 v.

10 HOWARD SKOLNIK, *et al.*,

11 Defendants.
12

3:09-CV-00227-RCJ-WGC

ORDER

13 Before the Court is the Report and Recommendation (#123) entered on November 30, 2011.
14 Defendants filed Objections to Magistrate Judge's Report and Recommendation (#125) on December
15 20, 2011.

16 The Court has conducted its *de novo* review in this case, has fully considered the objections of
17 the Plaintiffs, the pleadings and memoranda of the parties and other relevant matters of record pursuant
18 to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2. The district court may accept, reject, or modify in
19 whole or in part, the findings and recommendations made by the magistrate judge. Fed. R. Civ. P. 72(b).
20 The Court determines that the Magistrate Judge's Report and Recommendation (#123) entered on
21 November 30, 2011 is adopted and accepted.

22 IT IS HEREBY ORDERED that Plaintiff's Motion to Dismiss and Motion for Summary
23 Judgment (#111) is DENIED.

24 IT IS FURTHER ORDERED that Defendants' 12(b) Motion to Dismiss for Failure to Exhaust
25 Administrative Remedies (#104) is GRANTED in PART and DENIED in PART.

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1 Defendant's Motion to Dismiss (#104) are GRANTED and the following claims are DISMISSED
2 WITHOUT PREJUDICE:

- 3 1. Plaintiff's claim that he is precluded from participating in numerous Native American
4 ceremonies;
- 5 2. Plaintiff's claim that his ability to pray was inhibited;
- 6 3. Plaintiff's claim regarding the preparation and adequacy of food for ceremonial meals;
- 7 4. Plaintiff's claim that he was denied the ability to wear religious headgear in the culinary,
8 yard or living units;
- 9 5. Plaintiff's claims that he was denied the ability to burn herbs in his living area;
- 10 6. Plaintiff's claims that the use of religious land is subject to Defendants' arbitrary
11 schedule, and that he is precluded from using a separate plot of ground for solitary
12 practice of his religion; and
- 13 7. Plaintiff's claim that Defendants interfered with his ability to order religious books,
14 papers and music.

15 IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (#104) is DENIED as follows:

- 16 1. Plaintiff's claim that he was precluded from possessing certain religious items;
- 17 2. Plaintiff's claim that he was discriminated against based on his religion; and
- 18 3. Plaintiff's claims concerning the conduct of Senior Correctional Officer James Bauman.

19 IT IS SO ORDERED.

20 Dated: This 14th day of March, 2013.

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23 ROBERT C. JONES
24 UNITED STATES DISTRICT CHIEF JUDGE
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